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S. HRG. 99-607

RECLAMATION PROJECTS IN NEVADA

ORIGINAL

HEARING

BEFORE THE

SUBCOMMITTEE ON WATER AND POWER

OF THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES UNITED STATES SENATE

NINETY-NINTH CONGRESS

SECOND SESSION

ON

S. 1319

A BILL TO RELIEVE THE WASHOE COUNTY WATER CONSERVATION DISTRICT, NEVADA, OF CERTAIN FEDERAL REPAYMENT OBLIGATIONS

S. 1772

A BILL TO AUTHORIZE AND DIRECT THE SECRETARY OF THE INTERIOR TO CONVEY CERTAIN REAL PROPERTY TO THE PERSHING COUNTY WATER CONSERVATION DISTRICT

APRIL 17, 1986

Printed for the use of the
Committee on Energy and Natural Resources

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RECLAMATION PROJECTS IN NEVADA

THURSDAY, APRIL 17, 1986

U.S. SENATE,
SUBCOMMITTEE ON WATER AND POWER,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:03 a.m., in room SD-366, Dirksen Senate Office Building, Hon. Frank Murkowski presiding.

Present: Senators Murkowski and Hecht.

Also present: Russell R. Brown, professional staff member; and William B. Conway, counsel for the minority

Senator HECHT [presiding]. Senator Murkowski is unavoidably detained for a few minutes and so we will began the hearing. We are expecting rollcall votes all morning and so we want to get this hearing underway.

OPENING STATEMENT OF HON. CHIC HECHT, A U.S. SENATOR FROM THE STATE OF NEVADA

Senator HECHT. The hearing will come to order. This hearing this morning before the Subcommittee on Water and Power of the Committee on Energy and Natural Resources is to take testimony on two bills:

S. 1319, introduced by Senator Laxalt and myself, would relieve the Washoe County Water Conservation District of certain Federal repayment obligations; and S. 1772, introduced by Senator Laxalt and myself, would authorize and direct the Secretary of the Interior to convey certain real property to the Pershing County Water Conservation District.

Before proceeding to our first witness, and without objection, let us have printed at this point in the hearing record, copies of the bills and related legislative reports.

[The texts of S. 1319 and S. 1772 follow:]

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II

99TH CONGRESS
1ST SESSION

S. 1319

To relieve the Washoe County Water Conservation District, Nevada, of certain Federal repayment obligations.

IN THE SENATE OF THE UNITED STATES

JUNE 18 (legislative day, JUNE 3), 1985

Mr. LAXALT (for himself and Mr. HECHT) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To relieve the Washoe County Water Conservation District, Nevada, of certain Federal repayment obligations.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, the Washoe County Water Conservation District, Nevada, is hereby relieved of any repayment or reimbursement obligation to the United States in connection with emergency work performed at Boca Dam in 1965 and 1967.

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II

98TH CONGRESS
1ST SESSION

S. 1772

To authorize and direct the Secretary of the Interior to convey certain real property to the Pershing County Water Conservation District.

IN THE SENATE OF THE UNITED STATES

OCTOBER 17 (legislative day, OCTOBER 15), 1985

Mr. HECHT (for himself and Mr. LAXALT) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To authorize and direct the Secretary of the Interior to convey certain real property to the Pershing County Water Conservation District.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior shall convey, without monetary consideration, to the Pershing County Water Conservation District, all right, title, and interest of the United States in and to the land described in section 2 of this Act.

SEC. 2. The land referred to in the first section of this Act is described as follows:

Portions of those parcels of land described in the warranty deed between Charles S. Aldous, et ux. and the United

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States dated January 17, 1935, and in the warranty deed between Filippini Ranching Company and the United States dated January 26, 1935, said lands being in the County of Lander, State of Nevada, and described as follows:

All of section one (1) in township 32 north, range 44 east, M.D.B. & M.

All of sections 3, 4, 5, 6, 10, 11, 12, 13, 14, 22, 23, and 24; all of section 7 excepting therefrom portions of lots 3 and 4 and the southwest quarter more fully described by metes and bounds as follows:

Beginning at the intersection of the centerline of the westbound lane of Interstate Route 80, project I-080-3(12)229, and the west boundary of section 7, township 32 north, range 45 east, M.D.B. & M., at highway engineer's station "Bw" 241 + 36.69 P.O.C., said point of beginning further described as bearing south 0 degrees 02 minutes 18 seconds west, a distance of 1,571.26 feet from the west quarter corner of said section 7; thence north 0 degrees 02 minutes 18 seconds east along west boundary of said section 7, a distance of 379.00 feet to a point; thence south 34 degrees 02 minutes 55 seconds east a distance of 754.84 feet to a point; thence from a tangent which bears the last described course, curving to the left with a radius of 1,500 feet, through an angle of 34 degrees

S 1772 B

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06 minutes 42 seconds, an arc distance of 893.04 feet to a point; thence south 68 degrees 09 minutes 37 seconds east a distance of 731.06 feet to an intersection with the south boundary of said section 7; thence south 89 degrees 58 minutes 33 seconds west along said south boundary a distance of 1,787.00 feet to the southwest corner of said section 7; thence north 0 degrees 02 minutes 18 seconds east along the west boundary of said section 7; a distance of 1,071.65 feet to the point of beginning; said parcel contains an area of 20.91 acres, more or less, excepting therefrom all oil, gas or any and all minerals in or under the above described land and reserving the same to the United States providing that exploration, recovery, and removal of said oil, gas, and minerals shall be done in a manner as not to interfere with facilities constructed under this conveyance. Also excepting therefrom, the southeast quarter of said section 7. Also excepting therefrom, a strip of land having a uniform width of 30 feet where measurable at right angles, lying within 15 feet on each side of the following described centerline:

Beginning at a point in the south boundary of the northeast quarter of said section 7 distant therealong west 660.0 feet from the east quarter corner of said section; thence north 513.0 feet to a point on the south

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bank of the Reese River, that is distant south 17 degrees 16 minutes west 2,223.2 feet from the northeast corner of said section 7, the sideline boundaries of said strip of land are to be lengthened or shortened as the case may be, so as to begin in the south boundary of the northeast quarter of said section 7 and terminate on the south bank of the Reese River, said parcel contains an area of 0.35 acre, more or less.

The west half of section 8; the northeast quarter of section 9; all that portion of section 15 lying south of the old channel of the Humboldt River, and containing 340 acres, more or less. The southeast quarter of section 17 (except that portion thereof conveyed to C. W. Burge by deed recorded in Book 52 of Deeds, page 476), described as follows: That certain field known as the Mattos field, situated near the big bridge on county road, on Humboldt River bottom, and more fully described as follows, to-wit:

Beginning at a point corner numbered 1, on section line between southeast corner and the northeast corner of section 17, township 32 north, range 45 east, M.D.B. & M. Thence to southeast corner, section 17 bears south 1,015 feet. Thence north (on section line) 1,625 feet to east quarter corner, section 17. Thence, same course, 1,525 feet to northeast corner numbered

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2. Thence south 43 degrees 56 minutes west 2,019 feet to west angle corner (along wagon road). Thence south 39 degrees 33 minutes east 2,200 feet to corner numbered 1 place of beginning, containing 50.65 acres.

The northeast quarter of the northeast quarter of section 18, excepting therefrom a strip of land having a uniform width of 30 feet where measurable at right angles, lying within 15 feet on each side of the following described centerline:

Beginning at a point in the east boundary of said section 18 distant therealong south 1,127.9 feet from the northeast corner of said section; thence entering said section 18 north 30 degrees 20 minutes west 1,306.8 feet to a point in the north boundary of said section distant therealong west 660.0 feet from said northeast corner, the sideline boundaries of said strip of land are to be lengthened or shortened, as the case may be, so as to begin in the east boundary and terminate in the north boundary of said section 18, said parcel contains an area of 0.90 acre, more or less.

The north half of the north half, and the south half of the northeast quarter of section 26, all contained in township 32 north, range 45 east, M.D.B. & M.

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6

All of sections 7, 8, 9, 10, 11, 15, 16, 17, 18, and 20; the south half of section 1; the south half of section 2; the south 21/40 of south half of section 3 containing 168 acres; the south 21/80 of section 4 containing 168 acres; also in said section 4 all that portion of that certain 39.5 acres tract of land deeded on December 13, 1894, by J. H. Crum and others to James Faris (deed recorded at page 151 in Book 49 of Deeds, records of said Lander County) which is not included in that certain parcel or tract of land deeded May 22, 1903, by James Faris and Annie Faris to Southern Pacific Company (deed recorded at page 770 in Book 49 of Deeds, records of said Lander County); the south 33/80 of section 5 containing 264 acres; the south half of the south half, and the north half of the southeast quarter, and the north half of the southwest quarter (undivided one-half interest) of section 6; the north half of section 12; the northwest quarter of section 14; the north half of section 19; the north half of section 21; and the north half of the northwest quarter, the northwest quarter of the southwest quarter, and the southwest quarter of the northwest quarter of section 22; all contained in township 32 north, range 46 east, M.D.B. & M.

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The north half of the south half of section 6 contained in township 32 north, range 47 east, M.D.B. & M.

The southeast quarter of the northeast quarter of section 12 contained in township 33 north, range 44 east, M.D.B. & M.

All of sections 5, 6, 7, 8, 17, 18, 19, 20, 21, 28, 29, 30, 31, 32, and 33; the southwest quarter of section 9; the southwest quarter of section 27; the south half and the north half of the northeast quarter of section 34; and the southwest quarter of section 35; all contained in township 33 north, range 45 east, M.D.B & M.

The southwest quarter of the southeast quarter and southwest quarter of the southwest quarter of section 36 contained in township 34 north, range 44 east, M.D.B. & M.

SEC. 3. (a) The Secretary shall not carry out the conveyance specified in the first section of this Act until the Pershing County Water Conservation District (hereafter in this Act referred to as "the District") enters into a recordable agreement, in consideration of such conveyance, that is satisfactory to the Secretary as to form and legal sufficiency: *Provided*, That—

(1) the District will remain subject to its existing contracts and repayment obligations to the United States pursuant to the terms of Contract Nos. 11r-774, 14-06-400-429 and 14-06-200-8194A with the Department of the Interior, Bureau of Reclamation, and all other existing contracts and obligations to the United States; and

(2) the District will continue to protect water rights for the Humboldt project, a portion of which was purchased with the lands described in section 2 of this Act.

(b) No provision of this Act shall be construed to repeal or amend any existing lawful contracts for land use entered into by the United States prior to the date of enactment of this Act.

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Senator HECHT. For the record, I have a statement on behalf of Senator Laxalt. Since it is relevant, I will read it on behalf of Senator Laxalt.

Dear Frank, would you please enter the attached statement into the hearing record on S. 1319, for the relief of Washoe County Water Conservation District, and S. 1772, to transfer the title of the Battle Mountain Pasture to the Pershing County Water Conservation Districts.

And his statement, I see, is over two pages, so I will put that into the record.

[The prepared statements of Senator Laxalt follow:]

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PAUL LAXALT
NEVADA

COMMITTEE ON APPROPRIATIONS
COMMITTEE ON JUDICIARY

United States Senate

WASHINGTON, DC 20510

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(202) 224-3542

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(702) 883-1930

LAS VEGAS OFFICE
300 Las Vegas Blvd. South
(702) 388-6547

RENO OFFICE
200 Booth Street
(702) 784-5568

April 16, 1986

Dear Frank:

Will you please enter the attached statements into the hearing record on S. 1319, for the relief of the Washoe County Water Conservancy District, and S. 1772, to transfer title of the Battle Mountain Pasture to the Pershing County Water Conservation District.

It is unfortunate that previous commitments make it impossible to deliver my statements personally, but I do strongly favor both measures and hope the Subcommittee will act favorably on them.

With best wishes, I am

Sincerely,

PAUL LAXALT
U.S. Senator

PL:klb

Honorable Frank Murkowski
Chairman
Subcommittee on Water and Power
Committee on Energy and Natural Resources
212 Hart Senate Office Building

Enclosures

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STATEMENT OF SENATOR
PAUL LAXALT
ON S. 1319
APRIL 17, 1986

Mr. Chairman:

I appreciate this opportunity to provide the Committee with my views in support of S. 1319, a bill for the relief of the Washoe County Water Conservancy District.

I believe the issue here is simple: whether the District should be held responsible for emergency flood control work at Boca Dam which was requested by the Bureau of Reclamation. Boca Reservoir is a storage facility. While all of the documentation related to this matter is not now available, it is clear the flood control repairs were requested by the federal government. It is also clear the District was cpmcermed from the first about funding and requested assurances the work would be on a nonreimbursable basis. While stopping short of of a guarantee, the Bureau assured the District it was seeking authority for nonreimbursable emergency flood work. The District acted in good faith with funds advanced by the Bureau. The work was undertaken by the District on the assumption that legislation would be requested to provide for nonreimbursement. Such legislation was never enacted. We have an opportunity to remedy that oversight.

The bottom line question is whether the federal government, which requested the emergency repair work, or the Water Conservancy District which complied with that request should be liable for the work. I believe it is clear that the obligation rests with the Bureau of Reclamation. This is not simply a "deep pockets" recommendation, although the District is clearly unable to make repayment, but one in which federal responsibility is reasonably clear. I urge the Committee to accept that responsibility for the Bureau of Reclamation and favorably report this bill to the Senate.

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STATEMENT OF SENATOR
PAUL LAXALT
ON S. 1772
APRIL 17, 1986

Mr. Chairman:

I appreciate this opportunity to express my support for S. 1772, to transfer title of the Battle Mountain Pasture to the Pershing County Water Conservation District.

This issue goes back to 1934. In that year the Pershing County Water Conservation District agreed to purchase Battle Mountain pasture as part of its contribution to the water project. The Bureau of Reclamation included the pasture as part of the Humboldt project which the Distict agreed to finance. The project has now been completely paid out.

This measure will transfer title to the Battle Mountain pasture to the water project from the United States. Since the project has bought and paid for the project and paid taxes on the property, this transfer is a simple effort to ensure ownership of the property.

I urge the Committee's favorable action on the bill.

Thank you.

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Senator HECHT. I have a couple of statements on both bills which I think would, for the record, clarify any possible misunderstanding.

STATEMENT OF HON. CHIC HECHT, A U.S. SENATOR FROM THE STATE OF NEVADA, ON S. 1772 AND S. 1319

Senator HECHT. S. 1772 will transfer Federal lands known as Battle Mountain community pasture to the Pershing County Water Conservation District in Nevada. In 1934, the Pershing County Water Conservation District was about to purchase approximately 30,000 acres of land and water rights consisting of the Filippini and Aldous Ranches, known collectively as the Battle Mountain Pasture, the same Battle Mountain Pasture we are discussing today. About the same time, the Bureau of Reclamation issued a land reclamation irrigation project known as the Humboldt project.

Under the terms of the Humboldt Project, the Pershing Water Conservation District assigned its purchase contracts and attendant water rights for the Battle Mountain Pasture to the Bureau of Reclamation.

In addition, the Pershing County Water Conservation District agreed to pay the costs of development of the Humboldt project, including the purchase of Battle Mountain Pasture. These costs have now all been repaid. In other words, the water district has paid the Federal Government for the cost of the pasture.

This legislation would return the Battle Mountain Pasture to its rightful owners, the Pershing County Water Conservation District.

All parties with an interest in this bill recognize that this pastureland is closely tied to the community. This pastureland is a vital economic necessity to the people who paid for and benefit from the Humboldt project.

The Battle Mountain community pasture is essential to the livestock of operations of branches in Lovelock Valley, Nevada.

Again I emphasize this bill simply returns the same Battle Mountain Pasture to the Pershing County Water Conservation District which has already paid for it.

I would also like to give an explanation of S. 1319.

S. 1319 is a bill to relieve the Washoe County Conservation District in Nevada of payment for emergency flood control work conducted in 1965 and again in 1967 on Boca Dam.

Boca Dam, Mr. Chairman, is a water storage dam used by the district to supply water for irrigation. Let me take a few minutes to explain why the water conservation district should not be held liable for payment for this flood control work.

In May 1965, the Bureau of Reclamation became concerned that a maximum predictable flood might overlap Boca Dam that year. Although the dam was constructed for irrigation purposes, it was the only dam at the time that could be used for flood control. Stampede Dam has since been built to take care of flood control.

Because the dam was not constructed for flood control, it required repair works to stabilize and strengthen it to hold the anticipated flood waters.

Representatives of the Bureau of Reclamation met with representatives of the water district and explained the work and that

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the only source of funding available was from their emergency fund, which must be reimbursed.

The Bureau of Reclamation representatives indicated that proposed legislation would provide the funds for reimbursement, but that if the legislation failed, reimbursement would be asked of the district.

This legislation to provide funds for the work was never enacted. In addition, the Bureau of Reclamation failed to include a request for funding of this work and the Reclamation Safety of Dams Act of 1978, a bill enacted for the purpose of paying for the type of work done here.

So even though the work done on the dam was for flood control, the water district which only uses the dam for water supply, is now required to reimburse the Federal Government for flood control improvements.

We have here a case where a water district is being forced to pay for repairs which they neither needed nor wanted, but which they agreed to, believing that the Bureau of Reclamation would take care of the cost.

It is time we rectified this inequity and placed responsibility where it belongs, with the Bureau of Reclamation and the Federal Government.

We have the Governor's original letters which were given to Mr. Allen Brinkerhoff to personally deliver to the committee on both bills, which will be a matter put into the record.

[The letters from Governor Bryan follow:]

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THE STATE OF NEVADA
EXECUTIVE CHAMBER
Carson City, Nevada 89710

RICHARD H. BRYAN
Governor

TELEPHONE
(702) 885-5670

April 15, 1986

The Honorable Frank H. Murkowski
Chairman, Subcommittee on Water
and Power
United States Senate
Washington, D.C. 20510

Dear Senator Murkowski:

Governor Bryan is out of the country, but I have had the opportunity to discuss your April 1, 1986, letter regarding S.1319 with him. He asked me to convey his sincere appreciation for your invitation to submit testimony on the bill to relieve the Washoe County Water Conservation District, Nevada of certain Federal repayment obligations.

This District which was created and is operated under the Laws of the State of Nevada was established to operate Boca Dam for irrigation purposes, but not for flood control. However, when emergencies arose in 1965 and 1967 the Bureau of Reclamation responded and performed work which was immediately required to prevent loss of property and to protect lives downstream from Boca Dam. The costs of this work were paid out of emergency funds and it was understood that legislation would be processed to relieve the District of any repayment obligations. All parties agree that the District was not obligated to repair or alter Boca Dam for flood control purposes.

All details are not available in the records or from persons currently involved, but it is clear that all concerned in the 1960's assumed that the District was not financially responsible. It is the considered opinion of all persons involved that S.1319 confirms what was intended when the emergency work was accomplished, that is to relieve the District of any repayment or reimbursement obligations. To require otherwise, some 21 years after the positive and good intended work was accomplished, would be unjust and inequitable and would result in hardship to the District and to the people of Northern Nevada.

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On behalf of the State of Nevada, Governor Richard Bryan supports enactment of S.1319 and urges favorable consideration by the Subcommittee on Water and Power of the United States Senate.

Thank you for the opportunity to present this testimony.

Sincerely,

Timothy Hay

TIMOTHY HAY
Executive Assistant

TH/cjc

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THE STATE OF NEVADA
EXECUTIVE CHAMBER
Carson City, Nevada 89710

RICHARD H. BRYAN
Governor

TELEPHONE
(702) 885-5670

April 15, 1986

The Honorable Frank H. Murkowski
Chairman, Subcommittee on Water
and Power
United States Senate
Washington, D.C. 20510

Dear Senator Murkowski:

Governor Bryan is out of the country, but I have had the opportunity to discuss your April 1, 1986, letter regarding S.1772 with him. He asked me to convey his sincere appreciation for your invitation to submit testimony on the bill to authorize and direct the Secretary of the Interior to convey certain real property to the Pershing County Water Conservation District.

The lands in question which are located in Lander County, Nevada were acquired by the United States and the Pershing County Water Conservation District as an integral part of a Bureau of Reclamation project of the early 1930's. The project involved construction of the Rye Patch storage reservoir in Pershing County and the conveyance of water rights appurtenant to the lands to be conveyed by S.1772. The Pershing County Water Conservation District has paid for the lands through the Reclamation project cost reimbursement process.

Lander County, where the lands are located, supports the conveyance as this will be to their advantage. Similarly the transfer is advantageous to the Pershing County Water Conservation District. The transfer of lands has been the subject of thorough discussions and negotiations between the County and District through the years and a compromise has resulted.

Because the conveyance would be to the advantage of and is supported by both entities, it is also in the best interest of the State of Nevada for the conveyance of property to be completed through enactment of S.1772.

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Because the entire purchase price for the lands in question has been paid by the Pershing County Water Conservation District and in recognizing the conditions of Section 3, of S.1772, it is not only appropriate but imperative that the Secretary of the Interior convey to the Pershing County Water Conservation District all right, title and interest of the United States in and to the lands described without further monetary consideration.

On behalf of the State of Nevada, Governor Richard Bryan supports the enactment of S.1772 and urges favorable consideration by the Subcommittee on Water and Power of the United States Senate. The Governor has, further, authorized and requested Allen Brinkerhoff, Board member of the Pershing County Water Conservation District to indicate the Governor's support and endorsement of S.1772 at the April 17, 1986 hearing of the Subcommittee on Water and Power.

Sincerely,

TIMOTHY HAY
Executive Assistant

TH/cjc

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Senator HECHT. We are now ready for the witnesses.

Mr. Joseph Marcotte, would you come up, please?

Please proceed.

Mr. MARCOTTE. Would you prefer the comments on either bill, or both bills at the same time?

Senator HECHT. Let's do both of them at the same time while you are up there, whichever one you want to go with first. Do you want to go with S. 1319 first?

Mr. MARCOTTE. We will go with S. 1319.

Senator HECHT. Fine.

STATEMENT OF JOSEPH MARCOTTE, ACTING ASSISTANT COMMISSIONER, BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR, ON S. 1319

Mr. MARCOTTE. Mr. Chairman, thank you for the opportunity to comment on S. 1319, a bill to relieve the Washoe County Water Conservation District, NV, of certain Federal repayment obligations. The Department has no objection to enactment of S. 1319 and also believes a clarifying amendment to the bill is appropriate.

Boca Dam of the Truckee storage project was originally constructed by the Bureau of Reclamation in 1939. In 1964, the Bureau updated and revised its projection of the probable maximum flood as a result of additional hydrologic data. The revised inflow design flood data indicated that Boca Dam would have to be modified to prevent possible failure from overtopping. Corrective alternatives were examined. The possibility of increasing the capacity of the outlet works, enlargement of the spillway, and raising the dam elevation were considered, but not adopted as a result of prohibitive costs.

Our analysis in 1964 indicated that the most cost-effective alternative was to expedite the construction of Stampede Dam. Stampede Dam, an integral feature of the Washoe project on the Little Truckee River, was authorized to be constructed upstream of Boca Dam and had the necessary flood control protection to prevent structural damage to Boca Dam. In the interim period before Stampede Dam could be constructed, however, certain corrective measures were required at Boca Dam to protect the dam from possible failure during large spillway discharges. The cost of this corrective action totaled approximately $12,500 and is the nature of the emergency work referred to in the proposed bill.

At present, the Washoe County Water Conservation District operates and maintains Boca Dam and is the primary contracting entity. At the time the proposed corrective action measures were contemplated, the district was informed that the Department of the Interior was proposing legislation to seek nonreimbursable funding for safety oriented modifications on Bureau constructed dams. However, since the potential for failure was viewed to be high, corrective action measures at Boca Dam were undertaken before the enactment of the Safety of Dams Act of 1978, Public Law 95-578.

The work was thus accomplished pursuant to the authority under the Emergency Fund Act of 1948. This act requires full reimbursement for all funds that are expended. As safety of dams legislation was being considered prior to 1978, consideration was given

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to making the emergency expenditure on Boca Dam nonreimbursable, retroactively. The act that finally passed did not contain such a provision.

The Safety of Dams Act of 1978 authorized the Secretary of the Interior to make necessary modifications at existing Federal Reclamation dams for safety of dams purposes. The 1978 act provides for nonreimbursable funding for such modifications, provided that they are the direct result of new hyrodrologic or seismic data or changes in design and construction criteria for the construction of dams. The emergency work performed on Boca Dam prior to 1978 meets the test requirements for nonreimbursability. As required by the Reclamation Safety of Dams Act Amendments of 1984, Public Law 98-404, such work is now subject to 15 percent local cost sharing.

The original work was to safeguard the structural integrity of Boca Dam from revised inflow design flood until the authorized Stampede Dam could be constructed. Because of the unique circumstances surrounding this project and since we do not view S. 1319 as establishing any precedent for other safety of dams work undertaken by the Bureau prior to 1978, we have no serious objection to the proposed legislation.

We do believe that a specific dollar amount should be addressed in the legislation. The exact dollar charges associated with the corrective action measures at Boca Dam for the emergency work performed in 1965 and 1967 totaled $12,496.

Thank you for the opportunity to present the views of the Department of the Interior. I would be pleased to answer any questions you may have.

Senator MURKOWSKI [presiding]. Thank you very much, Mr. Marcotte.

Senator Hecht, you have been kind enough to preside in open hearing, and I want to first thank you and say how much I appreciate your accommodating me. I wonder, in view of your review of the opening statement, if you have any questions yourself.

Senator HECHT. Let us go on to the next one and do them both at the same time. How is that?

Senator MURKOWSKI. That is fine. All right.

Mr. MARCOTTE. We will proceed then with comments on S. 1772.

STATEMENT OF JOSEPH MARCOTTE, ACTING ASSISTANT COMMISSIONER, BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR, ON S. 1772

Mr. MARCOTTE. Again, Mr. Chairman, we thank you for the opportunity to testify before you today on S. 1772, a bill to authorize and direct the Secretary of the Interior to convey certain real property to the Pershing County Water District.

S. 1772 would direct the Secretary of the Interior to convey, without monetary consideration, to the Pershing County Water Conservation District, all right, title, and interest of the United States in and to specified land in Lander County, NV. The Secretary would be prohibited from making the conveyance unless the district fulfills all existing contracts and repayment obligations to the United States and continues to protect water rights for the Humboldt

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project. While we would not object to the enactment of S. 1772, we believe some specific amendments are necessary.

The approximately 30,000 acres known as the Aldous-Filippini Ranch, that are the subject of this legislation, were originally purchased by the Bureau of Reclamation to acquire water rights for the Humboldt project. The water rights have since been conveyed to the reservoir formed by Rye Patch Dam. The original purchase cost of these lands was included in the repayment contract between the United States and the district.

Management of these lands along with the operation of the reclamation project lies with the district. The district leases the Aldous-Filippini Ranch from the United States and operates the Battle Mountain community pasture on this tract.

The pasture has become a vital economic facet of the livestock operations in Lovelock Valley. It has been a boon to smaller units by providing them with summer grazing and allowing them to have livestock operations which would otherwise be impossible. About 25 percent of the district's farmers have no outside grazing and would not be livestock producers, were it not for the district's management of the community pasture.

Moreover, the district's repayment ability as well as its economy is enhanced by the community pasture operation. If these lands were no longer available for use as community pasture, the livestock operation of ranches presently using the land would be disrupted and, at a minimum, some smaller operators may be forced out of business. This could affect the repayment capacity of the district.

The fair market value of the land and accompanying water rights were included in the project costs to be repaid by the district. These costs have been fully repaid and, of subsequent loans made against the project equity, all but $197,000 has been repaid. However, under reclamation law, a water user's rights in a project is limited to the beneficial use of water. Article No. 15(a) of the contract between the United States and the district for rehabilitation and betterment of works of the Humboldt project, executed August 22, 1975, clearly states, and I quote: ". . . title to the project shall be and remain in the name of the United States until otherwise provided by the Congress, notwithstanding the fact of full repayment of the contractor's obligations to the United States." The district has paid for the right to the beneficial use of water but has not secured a right to use the lands.

Because the pasture is of such importance to the district, it has made a great financial investment in the lands. As conveyance would not adversely affect the Humboldt project, we would not object to the legislation authorizing conveyance of the land.

However, we have concerns with issues not addressed in the bill. First, we believe the district ought to bear the administrative costs of any transfer. These costs would include the costs of conducting a survey and preparing legal descriptions and a transfer document. Further, there are several Federal rights-of-way administered by the Bureau of Land Management which traverse the land. Therefore, we recommend that the bill be amended to require the conveyance to be subject to valid existing rights. We would be glad to

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provide appropriate language to the committee which would resolve these issues.

Mr. Chairman, that concludes my testimony. Again, I would be pleased to answer questions.

[The information follows:]

Amendments to S. 1772, a bill "To authorize and direct the Secretary of the Interior to convey certain real property to the Pershing County Water Conservation District"

On page 1, strike all after the word "convey," on line 3 through the word "consideration" on line 4 and insert in lieu thereof the following:

". . . subject to all existing rights and interests of third parties upon, in and over the property, and upon payment of administrative costs incurred in making the transfer, not to exceed forty-thousand dollars ($40,000)"

Senator MURKOWSKI. Thank you very much, Mr. Marcotte.

You mentioned that the work performed on Boca Dam meets the requirements of the 1978 Safety of Dams Act.

Are there any other reclamation projects on which safety-related work was completed prior to 1978 which would qualify under the 1978 act and, if so, what are those projects, and do you know how much money would be involved?

Mr. MARCOTTE. I understand there are other dams. I do not happen to have the specific titles of those dams nor the dollar amount, but would be pleased to furnish that information.

[The information follows:]

The following dams were modified prior to enactment of the Safety of Dams Act of 1978:

1. Conconully Dam, Okanogan Project, Washington—Safety of dams related modifications to Conconully Dam involved removal of the existing spillway, construction of a new concrete spillway, excavation of the outlet channel and raising the crest of the dam. Modifications were completed in 1969 at a total cost of $935,000.

2. Como Dam, Bitter Root Project, Montana—Safety of dams related modifications to Como Dam involved constructing concrete wingwalls on each side of the spillway. Modifications were completed in 1977 at a total cost of $12,500 of which $2,514 was borne by the Bitter Root Irrigation District.

3. Clear Lake Dam, Klamath Project, California-Oregon—Safety of dams modifications to Clear Lake Dam involved construction of a new spillway at a total cost of $399,398. Modifications were completed in 1974.

4. Gerber Dam, Klamath Project, California-Oregon—Safety of dams modifications to Gerber Dam involved construction of a new spillway stilling basin at a cost of $78,567. Modifications were completed in 1974.

5. Vallecito Dam, Pine River Project, Colorado—Safety of dams modifications at Vallecito Dam involved modifications to the spillway gates at a total cost of $4,943. Work was performed in 1969.

6. Bull Lake Dam, Wind Division, Riverton Unit, Pick-Sloan Missouri Basin Program, Wyoming—Safety of dams modifications involved restoration of original creat elevation at a cost of $3,000. Work was performed in 1966 by the water users with their own operation and maintenance funds.

7. Belle Fourche Dam, Belle Fourche Project, South Dakota—Safety of dams modifications of Belle Fourche Dam involved construction of a new spillway, closure of the original spillway, and placement of riprap protection on the upstream face of the dam. Modifications were completed in 1977 at a total cost of $2,111,028. Work was authorized by Public Law 93-493, October 27, 1974.

8. Pathfinder Dam, North Platte Project, Wyoming—Safety of dams modifications to Pathfinder Dam involved extending the right-side parapet wall. The work cost $600 and was performed in 1975.

9. Seminoe Dam, Kendrick Project, Wyoming—Safety of dams modifications to Seminoe Dam involved installation of cover plates and check valves and raising a short section of masonry wall. The work was performed in 1975 at a cost of $8,000.

Senator MURKOWSKI. Well, the record will be open for a period of 2 weeks, so we would appreciate that information.

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In the Reclamation Safety of Dams Act amendments which were enacted in 1984, there was a requirement that a portion of the safety-related expenditures be allocated to project purposes for repayment.

My question is: In the case of work performed on the Boca Dam, do you have any idea how much would be reimbursed by the project beneficiaries?

Mr. MARCOTTE. If the application was under the provisions of the 1984 Act?

Senator MURKOWSKI. Yes.

Mr. MARCOTTE. I do not have that information at hand. Again, we can provide that.

[The information follows:]

The 1984 amendment to the Safety of Dams Act states that 15 percent of costs shall be allocated to the authorized purposes of the structure, and such costs shall be allocated in accordance with the allocation of operation and maintenance charges. In this case, all costs are allocated to reimbursable functions (irrigation and power). The amount that would be reimbursed by the project beneficiaries if the 1984 amendment applied is $1,874 (15 percent of $12,496).

Senator MURKOWSKI. Since this legislation is sponsored by Senator Hecht and Senator Laxalt, I assume that you have more than a passing interest. Chic, if you have questions, please proceed.

Senator HECHT. I just want to thank the administration for their positive attitude on both of these bills. We certainly appreciate the courtesy extended to us.

You mentioned in there some amendments. Can staff take care of these amendments?

Senator MURKOWSKI. I think so.

Senator HECHT. Russ, do you have any comments with regard to the amendments that the Senator is referring to?

Mr. BROWN. In regard to the Boca Dam bill, the administration has recommended that we include a definite authorizing figure in legislation. It has been customary that the subcommittee include such a definite figure in past legislation, and I am sure that the administration has worked very carefully to provide the subcommittee with the correct figure.

Senator HECHT. So none of these amendments are in any way controversial or would affect the bills?

Mr. BROWN. As far as the Boca Dam is concerned, I am not aware of any controversy.

Senator HECHT. Were there any amendments on the other bill?

Mr. BROWN. As far as the Pershing County bill is concerned, it is my understanding that the administration has just now testified that they would be willing to work with the committee and to provide needed legislative language to support their suggested amendments.

Senator HECHT. When will we be getting these amendments from you?

Mr. MARCOTTE. One week.

Senator HECHT. Only 1 week? That is great. You are going to make all other departments feel foolish after that.

Senator MURKOWSKI. It is my understanding that the administration does not oppose the bill.

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Senator HECHT. What is our timeframe then on this, once we get the amendments, so we can get it moved down the road?

Senator MURKOWSKI. Well, the record is going to be open for 2 weeks and the comments of Mr. Marcotte will be forthcoming in response to the questions that were asked, and I would have to defer to the chairman of the committee as to when he might include it on his schedule, but I am sure, in view of the fact that opposition is unlikely that it could be moved promptly on our full committee calendar.

Do you have any idea, more specifically, Russ?

Mr. BROWN. Well, I hate to be pinned down on the record for a date as to when the staff or the committee can act. I would anticipate the items should be ready for agenda for full committee consideration by the end of this month.

Senator HECHT. Russ, one of the reasons I mentioned it, Mr. Brinkerhoff is going to testify next. I know he is going to be asked these questions when he goes home. I just wanted to comment so he can have something in his mind to tell the folks back home.

Senator MURKOWSKI. Fine.

Senator HECHT. Thank you very much. No further questions. Again, my thanks to the Department.

Senator MURKOWSKI. I have no further questions, Mr. Marcotte. I appreciate your contribution to the record this morning and look foward to hearing from you in regard to the questions that I posed.

Good day, sir.

[Subsequent to the hearing, the Department of the Interior submitted the following response to additional subcommittee questions:]

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United States Department of the Interior

BUREAU OF RECLAMATION
WASHINGTON, D.C. 20240

IN REPLY
REFER TO: 420

MAY - 9 1986

Honorable Frank Murkowski
Chairman, Subcommittee on Water and Power
of the Energy and Natural Resources Committee
United States Senate
Washington, D.C. 20510

Dear Senator Murkowski:

Enclosed please find responses to additional questions of the subcommittee regarding S. 1772, a bill "To authorize and direct the Secretary of the Interior to convey certain real property to the Pershing County Water Conservation District". These questions were conveyed to Acting Assistant Commissioner Joseph Marcotte by letter dated April 17, 1986.

Thank you for the opportunity to provide this material to the committee.

Sincerely yours,

FOR C. Dale Duvall
Commissioner

Enclosure

cc: CLC with enclosure

Honorable James McClure
Chairman, Energy and Natural
Resources Committee
United States Senate
Washington D.C. 20510

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Response to Additional Questions of

the Subcommittee on Water and Power of the

Energy and Natural Resources Committee,

United States Senate, Regarding S. 1772, a bill

"To authorize and direct the Secretary of the Interior to convey certain real property to the Pershing County Water Conservation District"

Following the April 17, 1986, hearing of the Subcommittee on Water and Power of the Energy and Natural Resources Committee of the Senate on the above bill, S. 1772, the following questions were conveyed for future response.

Question:

1. What was the original purchase price of the land subject to the provisions of S. 1772?

Response:

1. The purchase price of the Adolous-Flippinni Ranches, which now make up the Battle Mountain Pasture, and which are the subject of S. 1772 was $181,000 in January 1935. This price included the water rights, now separated from the land and conveyed downstream to Rye Patch Dam.

Question:

2. Is there an estimate of the current value?

Response:

2. The value of the pasture area is estimated to be between $66 and $133 per-acre. These estimates are based on a 1982 examination of comparable sales of Bureau of Land Management land in the Carson City-Reno, Nevada area. This range would make the total value of the tract calculate out at between $2 and $4 million.

Question:

3. You recommended that the bill be amended so that the District would bear the costs of transfer. Do you have an estimate of these costs? Has the District been informed of the Administration's proposed amendment prior to today's hearing?

Response:

3. We estimate the probable administrative costs necessary to convey the pasture land to the Pershing County Water Conservation District to be less than $10,000. However, we have not conducted a detailed examination of these administrative costs at this time, we have recommended a cap on the administrative costs of $40,000. This only figures out to just over $1 per acre for preparing legal descriptions, accurately identifying current

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Response 3 (continued):

valid rights of others existing on the property, conducting any land or boundary surveys necessary, and preparing the deed to the property. The District has been previously informed by our field personnel of our proposed amendment.

Question:

4. In the 97th Congress, the House version of this bill was amended in Committee to impose conditions on the proposed land transfer. Are you familiar with the conditions which were included in the House bill?

Response:

4. Yes, we are familiar with the House amendments. The differences between the current unamended version of S. 1772 and a similar bill, H.R. 5652, as amended by the 97th Congress acting in the Interior and Insular Affairs Committee of the House of Representatives, lies with the House amended version requiring the Pershing County Water Conservation District to utilize the conveyed lands for pasture or other public purposes. Any violation of this covenant to the title would trigger immediate reversion of the title to the United States.

As stated in the explanation of the House amendments to H.R. 5652 introduced in the 97th Congress, as reported in the report of the House Subcommittee on Public Lands and National Parks following its May 21, 1982, hearing on H.R. 5652, a bill identical to S. 1772,

> "This amendment would have the effect of conditioning the transfer of the lands to the water district on the district's willingness to accept limitations on what they could do with the land. In order to receive the lands without monetary payment, the district would have to agree that the lands could be used only for pasturage or other agricultural purposes and could not be transferred except to the State or a county or other subdivision for public purposes (this would permit transfer to Lander County for desired expansion of sewage-treatment facilities). Violation of the agreement would cause the lands to revert to federal ownership".

Question:

5. Does the Administration have a position on the conditions which were included in the House bill of the 97th Congress?

Response:

5. The Administration would not object to amending S. 1772 to condition conveyance of the land to the District upon payment of the administrative costs necessary to complete the conveyence, and upon the District's acceptance of restrictions on its use of the land and upon its ability to further convey title to the land. The explanation of the amendment made by the 97th Congress comports with current Administration policy, and therefore is acceptable.

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Senator MURKOWSKI. Our next witness will be Mr. Allen Brinkerhoff, president of the Pershing County Water Conservation District, Lovelock, NV.

We welcome you to the committee and you may proceed at your convenience.

STATEMENT OF ALLEN BRINKERHOFF, PRESIDENT, BOARD OF DIRECTORS, PERSHING COUNTY WATER CONSERVATION DISTRICT

Mr. BRINKERHOFF. Senator Murkowski, thank you for being here today to take this opportunity to present the district's position on the status of this pasture in Battle Mountain.

Prior to construction of the Rye Patch Dam by the Bureau of Reclamation, it was determined that additional water would be needed to justify the development of the Humboldt project in Lovelock Valley.

With this in mind, the directors of the district at that time proceeded to obtain purchase options on various ranches in Lander and Humboldt Counties with the expressed purpose of transferring water rights downstream to the project areas.

The contract for the development of the Humboldt project included the financing for the purchase of these upstream lands and called for the district to complete the water transfers, as required by Nevada statutes; thus, the repayment contract obligated the district to repay the purchase price of the land and to acquire certificates of appropriation for the transferred water rights.

The district completed the water transfer in 1956 and completed the repayment in 1978. The title to the land and the water rights both remain in the the name of the U.S. Government.

As the original purpose in obtaining the land was to furnish additional water for the Bureau of Reclamation at Rye Patch Dam, which has been accomplished, and due to the fact that constituents have been assessed over the years to repay the U.S. Government for all costs involved in the purchase for these lands, the board of directors of the district feels entirely justified in asking for title to these lands.

Over the years, conflicts between Lander County and the district have resulted in various attempts to dispose of the lands to aid Lander County financially by putting the land on the tax rolls. The district has opposed these attempts and has since the 1960's paid taxes to Lander County.

The community pasture has become a vital economic facet of livestock operations by the ranchers in Lovelock Valley. It has been a boon to the smaller units by providing them with summer grazing and allowing them to have a livestock operation which would otherwise be impossible.

Currently, the pasture sustains approximately 2,700 to 3,000 head of cattle for approximately 7 to 8 months, the bulk of which come from farmers with small acreages in the area. The loss of these pasture rights would severely impact the economics of the farmers in the valley.

Further income is provided to Lander County due to the fact that an agreement has been worked out whereby Lander County col-

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lects personal property taxes on the cattle for the months they are on the pasture.

Thus, with the support of the commissioners of Lander County and the support of the Bureau of Reclamation, the district at this time would like to ask that legislation be enacted providing title to the district of the lands that were acquired by and paid for by the constituents of the district.

Also attached to this statement is a joint resolution from the Lander County Commission and the Pershing County Water Conservation District supporting this legislation.

I also have attached a copy of the pasture regulations for the current year, which you might be interested in seeing how those operations are taken care of.

[The attachments to the prepared statement of Mr. Brinkerhoff follow:]

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JOINT RESOLUTION

WHEREAS, The "Humboldt Project" is a land reclamation and irrigation project created pursuant to acts of Congress of June 16, 1933 (48 Stat 195) and June 17, 1902 (32 Stat 388), and is primarily located in Pershing County, Nevada, and

WHEREAS, the Pershing County Water Conservation District (sometimes referred to as the Water District) did in 1934 enter into contracts to purchase approximately 29,884 acres of land and the water rights appurtenant thereto in northern Lander County, the purchase consisting of the Filipini Ranch in January 1934 and the Aldous Ranch in June 1934, the two ranches sometimes referred to as the Battle Mountain Pasture, and

WHEREAS, the Water District proceeded to transfer all water rights from the two ranches to Lovelock Valley in order to help make the construction of the Rye Patch Dam feasible, and

WHEREAS, the enabling legislation which authorized the "Humboldt Project" provided that the title to the Battle Mountain Pasture was to lie with the United States of America until the further act of Congress, and

WHEREAS, the Water District assigned its purchase contracts for the Filipini Ranch and the Aldous Ranch to the United States of America in December 1934, and did in 1936 convey the water rights to the United States of America as required under the terms of the "Humboldt Project", in order to make possible the construction of Rye Patch Dam, and

WHEREAS, the Water District did on October 1, 1934 enter into a "re-payment contract" with the United States Department of the Interior, Bureau of Reclamation to provide for the construction of the Rye Patch Dam and Reservoir and to ensure repayment to the United States of America of the costs of construction and operation of the "Humboldt Project", and

WHEREAS, the Water District completely repaid the United States of America the original costs of the "Humboldt Project" including the cost of the purchase of the Battle Mountain Pasture, and now is repaying the cost of the more recent raising of the height of the dam, and

WHEREAS, the Battle Mountain Pasture has been and continues to be required by the Water District in order to ensure that the waters of the Humboldt River pass through the Pasture and are not diverted or diminished in accordance with the terms of the transfer of water rights to Lovelock Valley, and

WHEREAS, the viability of the "Humboldt Project" has been amply proved over the past several decades, by a long record of successfully providing irrigation water for the farms of Lovelock Valley, one of the foremost agricultural districts of the State

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of Nevada, and by providing community pasture to directly support the costs of the "Humboldt Project" and at the same time providing community pasture for the Lovelock Valley farms under a succession of leases from the Bureau of Reclamation, and

WHEREAS, for many years the Water District has paid and continues to pay property taxes to Lander County on the leasehold interest in the Battle Mountain Pasture, in accordance with Nevada Revised Statute 539.213 in amounts similar to those paid by privately owned ranches, and the Water District and the County believe that this practice should continue, and

WHEREAS, there appears to remain no administrative purpose or other reason why title to the Battle Mountain Pasture should continue to remain in the United States of America since the original project has been completed and fully paid for, control of the land is required to protect the water rights of the District and the Water District is capable of continuing to manage the lands under fee ownership as responsibly as the Water District has managed them as lessees under the leases from the Bureau of Reclamation, and

WHEREAS, now appears to be the proper time for the further Act of Congress as contemplated by Congress in 1934, that act being the conveyance in fee title of the Battle Mountain Pasture to the Water District, in recognition of its status as initially having been acquired by the Water District, transferred to the United States of America in accordance with the provisions of the enabling act for the "Humboldt Project" with title to continue to be so held until the further act of Congress and the repayment of the construction and acquisition costs of the "Humboldt Project" having been completed in full, now therefore,

IT IS HEREBY JOINTLY RESOLVED BY THE BOARD OF DIRECTORS OF THE PERSHING COUNTY WATER CONSERVATION DISTRICT AND BY THE BOARD OF COMMISSIONERS OF LANDER COUNTY, NEVADA:

That the Congress of the United States of America is respectfully petitioned hereby to enact enabling legislation directing the Secretary of the Interior to transfer all right, title and interest of the United States of America in and to the Battle Mountain Pasture to the Pershing County Water Conservation District.

PROPOSED AND ADOPTED ON JUNE 6, 1985.

BOARD OF COMMISSIONERS
LANDER COUNTY, NEVADA
Battle Mountain, Nevada

By _____
GEORGE SCHWIN
Chairman

_____
JOHN KINCHELOE
Commissioner

_____
WILLIAM ELQUIST
Commissioner

ATTEST:

_____
JUDY NEGRO
County Clerk

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PROPOSED AND ADOPTED ON May 6, 1985

BOARD OF DIRECTORS
PERSHING COUNTY WATER CONSERVATION DISTRICT
Lovelock, Nevada

By _____
ALLEN BRINKERHOFF
President

_____
MICHAEL GOTTSCHALK
Vice-President

_____
CHARLES STAFFORD
Director

_____
BING G. WESNER
Director

_____
PAUL HOLCHER
Director

_____
OLAF THOMSEN
Director

_____
BOB GIBSON
Director

ATTEST:

_____
MYRON O. GOLDSWORTHY
Secretary-Manager

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RESOLUTION

WHEREAS, it appears that the best interests of the PERSHING COUNTY WATER CONSERVATION DISTRICT OF NEVADA, would be served by obtaining title to the Battle Mountain Community Pasture lands, and

WHEREAS, it appears that such action would also be in the best interests of Lander County, Nevada and

WHEREAS, it appears that such action has the support of the United States Bureau of Reclamation,

NOW, THEREFORE, IT IS HEREBY RESOLVED that the Board of Directors of the Pershing County Water Conservation District of Nevada will ask for and vigously support legislation in the United States Congress transferring title of said lands to the District.

Allen Brinkerhoff-President

Myron J. Goldsworthy
Secretary-Manager

DATED: October 5, 1981

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Lovelock, Nevada
December 1, 1986

To PCWCD Water Users:

Enclosed is a copy of the Community Pasture Regulations for 1986 for your information. Please read your Pasture Regulations, if any questions, please contact your District Office.

For your convenience an application for the 1986 Pasture Season follows.

Yours truly,

Myron J. Goldsworthy
Secretary-Manager

PERSHING COUNTY WATER CONSERVATION
DISTRICT OF NEVADA

Please tear off here and return to the District Office on or before January 5, 1986.

Application is hereby made to send the following cattle to the Battle Mountain Community Pasture, as follows:

COWS_____ @ $4.50 HEIFERS_____ @ $4.50

BULLS_____ @ $4.50 YEARLINGS_____ @ $3.75

STEERS_____ @ $4.50 BREED_____

_____
Total number of cattle

Also inclosed is 1st months payment.

_____
SIGNATURE OF PASTURE USER

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COMMUNITY PASTURE REGULATIONS FOR 1986

1. Pasture Allotments:

The Pasture right to each farm unit is apportioned as follows, using the water-right acreage:

80 acres----------25 head
160 acres----------33 head
240 acres----------39 head
320 acres----------43 head
over 320 acres----------43 head plus 1 for 40 acres.

The pasture right belongs to the land and must be utilized by the owner or legal occupant of the land to which said right accrues.

Applications for use of the Community Pasture will be accepted from all property owners in the District. All applications must be filed in the District Office no later than January 2, 1986 and accompanied with advance payment equal to the 1st months charges.

Pasture billings will be based on the final allotment issued to the user and any changes in the number of cattle being sent to the pasture must be reported to the District Office on or before March 1, 1986. The user will be billed for the number of cattle allotted not the number of cattle sent, unless changes are reported before the March 1st deadline.

The advance payment will be forfeited in FULL if the user fails to send cattle to the pasture, and failure to notify the District Office by March 1, 1986 will result in the applicant being billed for the full allotment to September 1, 1986.

The average carrying capacity of the pasture is determined to 2,700 head.

Additional allotments will be determined by subtracting the basic allotment total of those using the pasture from 2,700. The difference will be divided on a water-right acreage basis, thus the total water-right acres represented by pasture applications will be divided into the difference between 2,700 and the number of cattle applied for under the basic allotment. The resulting figure will be used to determine additional cattle numbers and may vary from year to year as the total acreage represented by the users changes.

If, however, a pasture user has more cattle to put on pasture than what his allotment intitles him to, he may make a request to the District Office for additional allotment, providing that there is sufficient pasture. Additional allotments will be approved by the Pasture Committee.

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2. Leases:

Leased lands will be considered as only added acres and will not add to the base allotment of any single operation.

Combined ownerships operating as a cattle unit will be treated as such with only one base allotment.

Non-operation leases or lease purchases will not be used to increase pasture allotments.

3. Charges:

Charge for pastureage will be at the rate of $4.50 per head per month for animals over 1 year. Heifers and steers over one year of age will be considered as grown cattle. Animals between 6 months through 12 months will be charged at $3.75 per head per month.

Actual costs of spraying, vaccinating and necessary veterinarian services and other necessary operations and supplies will be charged in addition to the pastureage.

4. Time of Use:

Pasture will be available May 1st or thereabout. Application for entry to the pasture should be made directly with the Pasture Manager at Battle Mountain, Nevada, prior to moving stock to the pasture. The phone number is 635-2488. it is listed under the name of MULE SHOE RANCH, BATTLE MOUNTAIN, NEVADA, in the telephone directory.

After inspecting and listing the stock, the Pasture Manager will enter the stock in the pasture and issue a receipt for the same.

The District will notify owners as to conditions of feed as the grazing season progresses and make recommendations covering removal of different classes of stock.

Application for removal of stock may be made at the District Office or directly with the Pasture Manager at least ten (10) days before the date it is desired to remove such stock. The Pasture Manager will be notified, and will prepare the stock for removal. When the stock is in position to be moved out without undue delay or inconvenience, the owner will be notified.

All cattle of an owner must be removed within ten(10) days from the time they begin taking out their cattle or:

1. A special field will be assigned to owner and must work his own cattle or,

2. A special fee of $50.00 per day will be charged if District personnel is used for working or loading the cattle.

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Stock may be removed at any time subject to the above requirements and must be removed by December 1st. At no time shall cattle be left through the winter months.

5. Vaccination and Dehorning:

All cattle over 6 months must be vaccinated for ANTHRAX. All calves must be vaccinated for BLACKLEG and MALIGNANY EDEMA. Vaccination and dehorning must be accomplished before movement to the pasture. It is also quite beneficial to the cattle if they are sprayed for grubs before going to the pasture.

6. Brucellosis:

A. All cattle that have not been certified brucellosis free under 1979 testing program and any new cattle must be certified brucellosis free before shipment to the pasture for the 1985 season.

B. Starting with the 1988 pasture season, all cattle using the community pasture must be vaccinated against brucellosis.

C. In the period between 1981 to 1988 all cattle will be required to be certified brucellosis free before shipment to the pasture.

7. Bulls:

One registered bull, grading 2 minus or better, must be furnished by the stockman for every thirty (30) females over two (2) years of age. Bull examination will be done by the Pasture Manager. Registration papers shall be shown at the time of examination. Positive identification of bulls will be made by examination of the tattoo number at the time of grading. Stockman entering less than thirty (30) females, two (2) years old or older must acquire a part interest in a bull with someone else if they do not furnish a bull themselves. Females under two (2) years of age will be segregated and kept away from the bulls unless the owner wishes to have them bred, then the latter case above rules apply.

8. Losses:

The District will not be responsible for any losses direct or indirect, but all ascertainable losses shall be noted, recorded, and the owner notified as soon as conveniently possible.

9. Brands:

All stock must be Branded with the owners registered stamp brand before it enters the pasture. No running irons are to be used. Each owner shall list his registered ear mark and brand with the District.

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10. Inspect Cattle:

Individual owners will not be allowed to inspect cattle nor allowed to work cattle without notice to and approval of the District and being accompanied by the Pasture Manager. Notice to be given to the District Office or Pasture Manager 48 hours before said inspection.

11. Noxious Weeds:

Each livestock owner must certify that his cattle have not had access to noxious or poisonous weeds for the 48 hours preceeding the time they are turned into the pasture. Willful violation shall deprive the stock owner of his pasture rights.

12. Interest:

Pasture fees are due and payable on the 10th of the following month and failure to make payment within 30 days may result in interest charges of 1½% per month on over due accounts. If payment is not made, the District shall have the right to sell enough of the debtors cattle to pay the account.

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Senator MURKOWSKI. Thank you very much, Mr. Brinkerhoff.

Senator Hecht, do you have any questions?

Senator HECHT. No. I appreciate all the work they have done on this and the fact that Mr. Brinkerhoff and his wife have come to Washington to testify. Again, I want to express my appreciation to the Department for their willingness to work with us.

Senator MURKOWSKI. Thank you, Senator Hecht.

Russ, I believe you have a question.

Mr. BROWN. Mr. Brinkerhoff, the administration testified that they would recommend amending the bill to provide that the district would be subject to the costs of the transfer, surveys, and so on. The district would pay those costs.

Has the Bureau of Reclamation indicated to the district how much costs they are talking about?

Mr. BRINKERHOFF. It has been indicated that those costs might run as much as $40,000. However, we hope that it would be considerably less than that. The $40,000 would be the maximum as I understand it.

Mr. BROWN. Thank you, Mr. Brinkerhoff. We will direct further questions to the administration regarding the payment of those costs.

Thank you, sir. Thank you, Mr. Chairman.

Senator MURKOWSKI. Thank you very much, Russ Brown.

I have no further questions, Mr. Brinkerhoff and Mr. Marcotte. I do want to recognize Senator Paul Laxalt's statement which will appear in the record, which you took care of, Chic.

I want to thank all of you. I think that we have achieved the business at hand and I would declare the Subcommittee on Water and Power adjourned. I thank you and thank those of you who participated as bystanders.

[Whereupon, at 10:29 a.m., the hearing was adjourned.]

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